

United States Courts
Southern District of Texas
FILED

1 John Shandley
2 2712 Ave H
3 San Leon, TX 77539
4 409-729-5195
5 Defendant in Pro Se
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MAR 06 2020

David J. Bradley, Clerk of Court

7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF TEXAS
9

10 LINDA SOLOOK

) Case No.:

11 Plaintiff,

) NOTICE OF REMOVAL

12 vs.

) [28 U.S.C. 1441, 14446 (6)]

13 JOHN SHANDLEY

) FROM THE COUNTY COURT OF
14) GALVESTON COUNTY
15) Case No.:20-EVO1-0167

Defendant.

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17 Defendant alleges:

18 **PARTIES AND COUNSEL**

19 1. Defendant, JOHN SHANDLEY, and Plaintiff, LINDA SOLOOK Properties are
20 those parties in a Texas County Court filed in the Galveston County Court of Galveston
21 County, concerning real property located at 2712 Ave H, San Leon, TX 77539,
[hereinafter referred to as "premises"], within this court's jurisdiction.

22 2. Defendant, John Shandley are the tenants of the premises, and participants
23 in this litigation.

24 3. Wherefore, Defendant is a bona fide tenant.

25 4. Plaintiff is NOT represented by counsel in the County Court action.

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FEDERAL QUESTION

5. Plaintiff has actually filed a Federal Question Action in County Court, for which the County Court Action is removed under 28 U.S.C. 1441 et seq. *Hunter v Philip Morris*, USA, 582 F. 3d 1039, 1042-43 (9th Cir. 2009); 28 U.S.C. 1331.

6. The Complaint in this action was filed in County Court as artful pleading, entitled by the County Court of Texas as " Citation - Eviction". Pleadings intentionally fails to allege compliance with the Civil Rights Act of 1968.

7. A well-placed Complaint is shown at least where the Plaintiff's right to relief necessarily depends on resolution of a substantial question of Federal Law.

[*Armstrong v N. Mariana Islands*, 576 F. 3d 950, 954-55 (9th Cir. 2009); *Empire Healthcare Assurance v. McVeigh* 547 US 677, 687-690 (2006); *Franchise Tax Bd v. Const. Laborers Vacation Trust for S. Cal.* 463 US 1, 12, 27-28 (1983)].

8. Even where the cause of action is based on state law, the District Court has subject matter jurisdiction over the case if (1) the federal issues are essential to the claims, (2) there is a substantial federal issues in resolving such issues, and (3) a Federal forum may entertain the State Law claims without disturbing the balance of Federal and State judicial responsibilities. [**Grable & Sons Metal Prods v. Darue Engr & Mfg.** 545 US 308, 313, 315 (2005)]. Here, the rights of the Defendants are clearly at stake.

9. To be a Federal Cause of Action, there must also be a private right of action. [*Merrill Dow Pharms. Inc. v. Thompson* 478 US 804, 817 (1986)]. It can be either express or implicit. [*Diaz v. Davis* 549 Fed 3d 1223, 1229-1230 (9th Cir. 2008)]. The Court must look to the "rights creating" language and statutory structure within which it is contained. [*Lamie v. Unites States Trustee* 540 US 526, 534 (2004)]. The Court

1 must assume that Congress did not intend to create a right without a remedy. [First
2 **Pacific Bancorp, Inc. v. Helfer**, 224 F.3d 1117, 1123, 1125-26, (9th Cir. 2000)].

3 10. Defendant is a members of a protected class of whom the statue, the
4 "Civil Rights Act of 1968" was created.

5 11. The Federal Cause of Action in eviction/ejectment is the basis for this action,
6 irrespective of artful pleading, such that action could have been brought in Federal
7 District Court.

8 10 **REMOVED ACTION**

9 11 12. The Notice of Removal is timely under Section 1446 (b) of Title 28 of the
12 United States Code because it is filed within 30 days of discovering that the case was
13 ripe for removal.

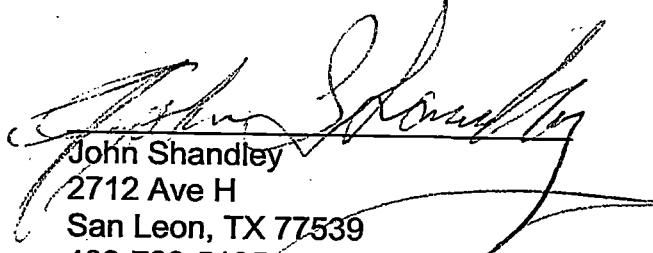
14 15 13. A true and correct copy of the County Court Complaint of the action,
16 Defendant's Pre-Judgment Claim of Right to Possession and related documents, sought
17 to be removed to this Court are attached hereto and incorporated herein by reference.

18 14. Defendant is a bona fide residential tenant and entitled to the protection of
19 the Federal Court, and entitled to remove this action to Federal Court.

20 15. Under Texas Code of Civil Procedure the County Court hereby loses
21 jurisdiction under the Federal Rules of Civil Procedure and does not recover jurisdiction,
22 if at all, until and unless this action is remanded to the County Court, after which
23 jurisdiction will again attach as described in that statute.

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3 Dated: March 6, 2020
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